15 Wall, 684.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 490.

WADE HAMPTON, PLAINTIFF IN ERROR,

vs.

JOHN D. ROUSE.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

FILED DECEMBER, 6, 1871.

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1 Pleas and proceedings before the Honorable Robert A. Hill, district judge of the United States for the districts of Mississippi, at a regular term of the circuit court of the United States for the 5th judicial circuit, in the southern district of Mississippi, held at Jackson, in said district, on the first Monday, being the first day of May, in the year of our Lord one thousand eight hundred and seventy-one.

JOHN DOE, EX DEM. JOHN D. ROUSE, PLAINTIFF,
vs.
RICHARD ROE, I. E., WADE HAMPTON ET AL., defendants. } No. 907.

Be it remembered that heretofore, to wit, on the 25th day of March, in the year of our Lord one thousand eight hundred and seventy,
2 came the said plaintiff, by his attorneys, Messrs. Adam and Speed, and filed in the office of the clerk of said circuit court his declaration in writing in this cause, in the words and figures following, to wit:

Declaration and notice.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

In circuit court of the United States in and for said district. To May term, A. D. 1870.

JOHN DOE, ON DEMISE OF JOHN D. ROUSE, plaintiff,
versus.
RICHARD ROE, DEFENDANT.

John Doe, who is a citizen of the State of Louisiana, by attorney, complains of Richard Roe, who is a citizen of the State of Mississippi, summoned of a plea of trespass vi et armis, for that, whereas, heretofore, to wit, on the 26th day of March, in the year of our Lord one thousand eight hundred and sixty-nine, in the district aforesaid, John D. Rouse, who is a citizen of the State of Louisiana, had demised to the said John Doe a certain tract of land situated in the county of Washington, in the State of Mississippi, and in the district aforesaid, described as follows, to wit: The west half of the south-
3 west quarter of section eighteen, the west half of section nineteen, the northwest quarter of section thirty, in township fourteen, of range seven west; also, lots one, three, and four of section twenty-four; lot seven of section twenty-five; lot two of section twenty-seven; all of section twenty-nine; all of section thirty; and lots one, two, three, four, and six of section thirty-one, in township fourteen, of range eight west; with the appurtenances: To have and to hold the same, to the said John Doe and his assigns, from the said 26th day of March aforesaid, for and during and unto the full end and term of ten years from thence next ensuing, and fully to be complete and ended. By virtue of which said demise the said John Doe entered into the said tenements, with the appurtenances, and became and was possessed thereof for the said term so to him thereof granted. And the said John Doe being so thereof possessed, the said Richard Roe, afterwards, to wit, on the 27th day of March, A. D. 1869, with force and arms,

&c., entered into the said lands and tenements, with the
4 appurtenances, in which the said John Doe was so interested, in manner and for the term aforesaid, which is not expired, the same being worth more than two thousand dollars, and ejected the said John Doe from his said lands and tenements, and other wrongs to the said John Doe then and there did, against the peace of the said United States, and to the damage of the said John Doe of the sum of ten thousand dollars; and therefore he brings his suit, &c.

ADAM AND SPEED,
Att'ys for Jno. Doe.

To Wade Hampton, s'r, Wade Hampton, j'r, William A. Patterson, Seldon Spencer, William Faulk, and James M. Howell, citizens of the State of Mississippi:

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or to some part thereof, and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear on the first day of the next term of the circuit court of the United States for the
5 southern district of Mississippi, to be holden at the city of Jackson, in said district, on the first Monday of May next, A. D. 1870, and then and there, by rule of the same court, to cause yourself to be made defendant in my stead; otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

Dated this 25th day of March, A. D. 1870.

Yours, &c.,

RICHARD ROE.

(Endorsed:) We are security for costs in this cause.
March, 1870.

ADAM AND SPEED.

Filed and copy issued on 25th March, 1870.

GEO. T. SWANN, *Clk.*

And on the same day of the filing of said declaration, to wit, the 25th day of March, A. D. 1870, a copy of said declaration and notice was issued from the clerk's office of said circuit court to the marshal of said district, to be served on the said defendants, which, with the returns and endorsements thereon, are in the words and figures, as follows, to wit:

6 *Copy of declaration and notice.*

UNITED STATES OF AMERICA,
Southern District of Mississippi ss:

In circuit court of the United States in and for said district. To May term, A. D. 1870.

JOHN DOE, ON DEMISE OF JOHN D. ROUSE, PL'FF,
vs.
RICHARD ROE, D'F'T.

John Doe, who is a citizen of Louisiana, by attorney, complains of

Richard Roe, who is a citizen of the State of Mississippi, summoned of a plea of trespass vi et armis, for that, whereas, heretofore, to wit, on the 26th day of March, in the year of our Lord one thousand eight hundred and sixty-nine, in the district aforesaid, John D. Rouse, who is a citizen of the State of Louisiana, had demised to the said John Doe a certain tract of land situated in the county of Washington, in the State of Mississippi, and in the district aforesaid, described as follows, to wit: The west half of the southwest quarter of section eighteen, the west half of section nineteen, the northwest quarter of section thirty, in township fourteen, of range seven west; also, lots one, three, and
7 four, of section twenty-four; lot seven, of section twenty-five; lot two, of section twenty-seven; all of section twenty-nine; all of section thirty; and lots one, two, three, four, and six, of section thirty-one, in township fourteen, of range eight west, with the appurtenances: To have and to hold the same to the said John Doe, and his assigns, from the said 26th day of March, aforesaid, for and during and unto the full end and term of ten years from thence next ensuing, and fully to be complete and ended. By virtue of which said demise, the said John Doe entered into the said tenements with the appurtenances, and became and was possessed thereof for the said term so to him thereof granted; and the said John Doe being so thereof possessed, the said Richard Roe afterwards, to wit, on the 27th day of March, A. D. 1869, with force and arms, &c., entered into the said lands and tenements, with the appurtenances, in which the said John Doe was so interested, in manner and for the term aforesaid, which is not expired, the same being worth more than two thousand dollars, and ejected the said John Doe from
8 his said lands and tenements, and other wrongs to the said John Doe then and there did, against the peace of the United States, and to the damage of the said John Doe of the sum of ten thousand dollars; and therefore he brings his suit, &c.

ADAM AND SPEED,
Att'ys for John Doe.

To Wade Hampton, s'r, Wade Hampton, j'r, William C. Patterson, Seldon Spencer, William Faulk, and James M. Howell, citizens of the State of Mississippi:

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or to some part thereof, and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear on the first day of the next term of the circuit court of the United States for the southern district of Mississippi, to be holden at the city of Jackson, in said district, on the first Monday in May next, A. D. 1870, and then and there, by rule of the same court, to cause yourself to be made defendant
9 in my stead; otherwise, I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

Dated this 25th day of March, A. D. 1870.

Yours, &c.,

RICHARD ROE.

A true copy. Teste:
[L. S.] GEO. T. SWANN, *Clk.*

To the marshal of the southern district of Mississippi to execute and return.

(Endorsed:

UNITED STATES OF AMERICA,
Southern District of Mississippi,
U. S. Marshal's Office:

I hereby nominate and appoint Joseph McCloy my special deputy to execute and return the within process according to law.
Witness my hand and seal this 26th day of March, 1870.

E. A. PEYTON. [SEAL.]
U. S. Marshal Southern District of Mississippi.

Executed this declaration and notice upon Wade Hampton, s'r, Wade Hampton, j'r, J. Malley Howell, and Seldon Spencer, by reading this declaration and notice to each of them, and by delivering a copy of said declaration and notice to each of them, in person, on this 5th
10 April, A. D. 1870.

E. A. PEYTON,
Marshal.
By JOS. McCLOY,
Special Deputy.

And at the May term, 1870, of said circuit court, and on the 25th day of May, 1870, came the said defendants, by their attorneys, Messrs. T. J. and F. A. R. Wharton, and filed their plea in this cause in the clerk's office of said court as follows, to wit:

Plea.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit court, May term, 1870.

JOHN DOE, EX DEM. J. D. ROUSE,
vs.
R. ROE, W. HAMPTON, SR., ET AL.

And the said defendants, except Seldon Spencer, by attorney, come into court, and for plea say that they are not guilty of the trespass and ejectment in manner and form as the plaintiffs in their declaration hereof have alleged; and of this they put themselves upon the country.
And the said defendants, by leave of court, hereby waive
11 the proof of lease, entry, and ouster, and put themselves upon the defence of title only.

W. HAMPTON, SR.,
W. HAMPTON, JR.,
J. M. HOWELL,
Defendants.

T. J. and F. A. R. WHARTON,
Atto's for Def'ts.

Def't Spencer disclaims possession and any interest in the lands sued for.

WHARTONS, *For Def'ts.*

Filed May 25th, 1870.

G. T. SWANN, *Clk.*

And, on the 25th day of May, A. D. 1870, a day of said May term, 1870, of said court, the following consent rule was made in this cause, and entered upon the minutes of said court, to wit:

UNITED STATES OF AMERICA,
Southern District of the State of Mississippi:

JOHN DOE, EX DEM. J. D. ROUSE,
vs.
R. ROE, W. HAMPTON, SR., ET AL. } 907.

In this case the said defendants, Wade Hampton, sr., Wade Hampton, jr., J. M. Howell, in their proper persons, tenants in possession of the lands described in the plaintiff's declaration, consents to be made defendants in the place of the casual ejector, and appear at the suit of the plaintiff to receive a declaration in ejectment and plead "not guilty," and at the trial of the issue to confess lease, entry, and ouster and possession of the premises, and insist upon title only; and if at the trial they shall not confess lease, entry, and ouster, and possession, whereby the plaintiff shall not be able to prosecute his suit, said Wade Hampton, sr., and said other defendants shall pay to the said plaintiff the costs of the non pros. and suffer judgment to be entered against the casual ejector; and the lessors of the plaintiff consent on their part that if a verdict shall be given for the defendants, or the plaintiff shall not prosecute his suit for any other reason than the non-confession of lease, entry, and ouster, they, the said lessors of the plaintiff, shall pay costs to the defendants.

12

W. HAMPTON, SR.
W. HAMPTON, JR.
J. M. HOWELL.

T. J. and F. A. R. WHARTON,
Atto's for Def'ts.

ADAM AND SPEED,
Atto's for Pl'ffs Lessor.

13 And thereupon the def'ts, by attorney, plead "not guilty," and the cause is continued.

And, on the 6th day of April, A. D. 1871, a summons was issued by the clerk of said court for witnesses on behalf of the defendants, which, with the endorsements and returns thereon, are as follows, to wit:

U. S. OF AMERICA,
Southern District of Mississippi:

The President of the United States to the marshal of the southern district of Mississippi, greeting:

We command you that you summon W. A. Haycraft, S. G. Ferguson, A. B. Carson, L. B. Valliant, Wade Hampton, jr., that, all excuses *ceases* and all business laid aside, they do in their proper persons appear before the circuit court of the United States for the 5th circuit and district aforesaid, at a court to be held at the city of Jackson, on the first Monday in May next, on 9th day of the term, then and there to testify the truth, according to their knowledge, in a cause therein

14 pending and undetermined between John D. Rouse, plaintiff, and Wade Hampton, defendant, on the part and in behalf of the said

defendant, and this they shall in nowise omit under the penalty of one hundred dollars, and the consequences of such omission.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, the 6th day of April, A. D. 1871, and in the 75th year of the independence of the United States.

[L. S.] GEO. T. SWANN, *Clerk.*

(Endorsed:) Rec'd April 12, 1871. M. Shaughnessey, U. S. M.

U. S. MARSHAL'S OFFICE,
Jackson, Mississippi, April 12th, 1871.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

I hereby nominate and appoint Ja's A. Sinclair my special deputy to execute and return the within process according to law.

Witness my hand and seal this 12th day of April, 1871.

M. SHAUGHNESSEY, *U. S. M.* [SEAL.]
By W. H. FOARD, *Dep'y U. S. Marshal*
Southern District of Mississippi.

Within writ this day returned: Executed, according to law, by
15 reading same to within-named W. H. Haycraft, S. W. Ferguson, and L. B. Valliant, and also by serving each of them with certified copy of same on the 15th day of April, 1871.

Also, made personal service on within-named A. B. Carson, by reading and serving with certified copy of within writ; and further executed personally on within last-named Wade Hampton, jr., by reading and leaving true copy of within writ with him at the residence of his father, Gen. Wade Hampton, on Lake Washington, in this county, and 40 miles distant from Greenville, on the 20th day of April A. D. 1871.

Greenville, Washington Co., Miss., this 22d day of April, A. D. 1871.

JA'S A. SINCLAIR,
Sp'l D'y U. S. M.

And, on the 17th day of April, 1871, the following summons was issued for witnesses on behalf of the plaintiff, which, with the returns of the marshal thereon, is as follows, to wit:

U. S. OF AMERICA,
Southern District of Mississippi:

The President of the United States to the marshal of the southern
16 district of Mississippi, greeting:

We command you, that you summon William A. Haycraft, of Greenville, Washington County, that, all excuses *ceases* and all business laid aside, he do in his proper person appear before the circuit court of the United States for the 5th circuit and district aforesaid, at a court to be held at the city of Jackson, on the first Monday in May next, on the 1st day of the term, then and there to testify the truth according to his knowledge, in a cause therein pending and undetermined, between John D. Rouse, plaintiff, and Wade Hampton and others, defendants, on the part and in behalf of the said plaintiff, and this he shall in nowise omit, under the penalty of one hundred dollars and the consequences of such omission.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme

Court of the United States, the 17th day of April, A. D. 1871, and in the 95th year of the independence of the United States.

[L. S.] GEO. T. SWANN, *Clerk.*

Rec'd April 21st, 1871.

JA'S A. SINCLAIR,
Sp'l Dep'y U. S. M.

17 Returned: Executed by reading the within writ to the within named W'm A. Haycraft, and by delivering to him personally a true copy of the same, this 24th day of April, A. D. 1871.

JA'S A. SINCLAIR,
Sp'l Dep'y U. S. M.

And now, afterwards, to wit, on Wednesday, the 24th day of May, 1871, the same being a day in the regular term of said circuit court of the United States for the 5th circuit, and southern district of Mississippi, begun and held at Jackson on the first Monday, and first day of May, A. D. 1871, a verdict and judgment was rendered in this cause, as follows, to wit:

JOHN DOE, EX DEM. JOHN D. ROUSE,
vs.
RICHARD ROE, I. E., WADE HAMPTON ET AL. } 907.

Came the parties, by their attorn*ies*, and thereupon came a jury, to wit, Sebastian Alford, M. Fay, S. Weyer, J. A. Voight, W. C. Harrell, H. G. O. Parker, B. Hudnal, T. H. Lewis, J. P. Stevens, J. H. Ledbetter, N. H. Boyd, and T. J. Stone, who, being duly sworn well and truly to try
18 the issue joined between the plaintiff and defendants and a true verdict to render according to evidence, upon their oaths do say:

We, the jury, find for the plaintiff and that defendants are guilty of the trespass and ejectment in the declaration alleged, and assess the plaintiffs' damages at one cent.

Whereupon it is considered by the court that the plaintiff do recover of the defendant his term unexpired in the lands in the declaration mentioned, together with his damages and costs in this behalf expended, and that a writ of habere facias possessionem issue, &c.

And thereupon defendants, feeling aggrieved, entered a motion to set aside the verdict of the jury and for a new trial; which motion was overruled and exceptions reserved.

Whereupon counsel tendered their bill of exceptions on behalf of defendants which was signed, sealed, and made part of the record herein.

19 BILL OF EXCEPTIONS.

UNITED STATES OF AMERICA,
Southern District of Mississippi.

May term, A. D. 1871, of circuit court.

JOHN DOE, EX DEM. JOHN D. ROUSE,
vs.
RICHARD ROE, I. E., WADE HAMPTON ET AL. } In ejectment.

Be it remembered that, on the trial of this cause, it was admitted that

the defendants were in possession of the premises in controversy at the commencement of the suit. It was also admitted and agreed that the lands in controversy were worth upwards of $2,000. It was also admitted and agreed that Wade Hampton, sen'r, filed his petition in bankruptcy on the 29th December, A. D. 1868, asking to be declared and discharged a bankrupt according to the provisions of the act of Congress, passed in 1867, establishing a uniform system of bankruptcy, and duly discharged as a bankrupt by the district court of the United States for the southern district of Mississippi, on the 22nd day of March, A. D. 1870, and was adjudicated a bankrupt on the 17th day of February, A. D. 1869, and S. W. Ferguson appointed and qualified as his assignee on the 19th day of April, A. D. 1869.

Plaintiff then read to the jury two deeds by Andrew Carson, the sheriff of Washington County, conveying the lands to Ike S. Robinson, levee treasurer, &c., which deeds are in the words and figures following, marked No's 1 and 2:

Deed No. 1.

Whereas I, Andrew B. Carson, sheriff of Washington County, Mississippi, and collector of the levee tax for said county, levied by an act entitled "An act to incorporate the board of levee commissioners for Bolivar, Washington, and Issaquena counties, and for other purposes, approved November 27, 1865," have this day, according to law, offered for sale at the door of the court-house of my county, for the levee tax due thereon for the year 1866, and unpaid, the following lands situate in the said county of Washington, to wit:

All	section	7	and
Lots 1, 3, and ½ of 2	"	8	"
" 1, 3, and 4	"	24	"
" 7	"	25	"
" 2	"	27	"
All	"	29	"
All	"	30	"
Lots 1, 2, 3, 4, and 6	"	31	"
32 acres in lot 2	"	32	

all in township 14, range 8 west, containing 2,971 acres, more or less.

And whereas no person did bid for the same, the amount of the taxes due thereon:

Now, therefore, know all men by these presents, that I, as such sheriff and levee tax collector, in conformity with the act aforesaid, and for the consideration of two hundred and ninety-eight $\frac{35}{100}$ dollars, being the amount of the levee tax and charges due thereon, do hereby grant, bargain, sell, and convey to Ike S. Robinson, treasurer of the said board of levee commissioners, and to his successors in office, the above described tract of land.

Given under my hand and seal this 23rd day of April, A. D. 1867.

A. B. CARSON,
Sheriff and Levee Tax Collector of Washington County, Mississippi.

THE STATE OF MISSISSIPPI,
Washington County:

Personally appeared before me T. B. Gray, clerk of the probate court of said county, Andrew B. Carson, who acknowledged that, as sheriff

and collector of the levee tax of said county, he signed, sealed, and delivered the foregoing deed on the day and year therein named, as his act and deed as such sheriff and tax collector.

Given under my hand and official seal this 14th day of May, A. D. 1867.

[L. S.] T. B. GRAY, *Clerk.* [SEAL.]

STATE OF MISSISSIPPI,
Washington County:

I, John Fawn, clerk of the probate court in and for said county, do hereby certify that the foregoing deed was filed in my office May 14th, 1867, and this day duly recorded in deed-book "U," page 518.

Given under my hand and official seal this 30th day of July, 1869.

[L. S.] JNO. FAWN, *Clerk.*

Deed marked No. 2.

Whereas I, Andrew B. Carson, sheriff of Washington County,
23 Mississippi, and collector of the levee tax for said county, levied by an act entitled "An act to incorporate the board of levee commissioners for Bolivar, Washington, and Issaquena counties, and for other pusposes," approved November 27, 1865, have this day, according to law, offered for sale, at the door of the court-house of my county, for the levee tax due thereon for the year 1866, and unpaid, the following lands, situate in the county of Washington, to wit:

All	section	five,	(5,) and
Lot 1	"	six,	(6,) and
Lots 1, 2, 4, 5, and 6	"	seven,	(7,) and
N. W. ¼ and W. ½ S. W. ¼	"	eight,	(8,) and
N. ½ and W. ½ S. W. ¼	"	eighteen,	(18,) and
W. ½	"	nineteen,	(19,) and
S. W. ¼ and W. ½ S. E. ¼	"	twenty-nine,	(29,) and
N. W. ¼ and S. E. ¼	"	thirty,	(30,) and
E. ½ E. ½	"	thirty-one,	(31,) and
All	"	thirty-two,	(32,)

all in township 14, range 7 west, containing 3,681 acres, more or less.

And whereas no person did bid for the same the amount of the taxes due thereon:

Now, therefore, know all men by these presents that I, as such
24 sheriff and levee tax collector, in conformity with the act aforesaid, and for the consideration of three hundred and sixty-nine $\frac{35}{100}$ dollars, being the amount of levee tax and charges due thereon, do hereby grant, bargain, sell, and convey to Ike S. Robinson, treasurer of the said board of levee commissioners, and to his successors in office, the above-described tract of land.

Given under my hand and seal this 19th day of April, A. D. 1867.

A. B. CARSON, [SEAL.]
Sheriff and Levee Tax Collector, Washington County, Mississippi.

THE STATE OF MISSISSIPPI,
Washington County:

Personally appeared before me, T. B. Gray, clerk of the probate court of said county, Andrew B. Carson, who acknowledged that, as sheriff and collector of the levee tax of said county, he signed, sealed, and

delivered the foregoing deed on the day and year therein named, and as his act and deed as such sheriff and tax collector.

Given under my hand and official seal this 14th day of May, A. D. 1867.

[L. S.] T. B. GRAY, *Clerk.* [SEAL.]

25 STATE OF MISSISSIPPI,
Washington County:

I, John Fawn, clerk of the probate court in and for said county, do hereby certify that the foregoing deed was filed in my office May 14th, 1867, and this day duly recorded in deed-book "U," page 518.

Given under my hand and official seal this 30th day of July, 1869.

[L. S.] JNO. FAWN, *Clerk.*

The plaintiff then read a deed from W. A. Haycraft, levee treasurer, &c., to plaintiff, which deed is in the words and figures following, to wit:

Deed, marked No. 3.

[$2 revenue stamp.]

This indenture, made and entered into on this 26th day of March, A. D. 1869, by and between William A. Haycraft, treasurer of the board of levee commissioners for the counties of Bolivar, Washington, and Issaquena, of the first part, and John D. Rouse, of the second part, witnesseth:

That whereas, in pursuance of the provisions of an act, entitled "An act to incorporate the board of levee commissioners for Bolivar, Washington, and Issaquena counties, and for other purposes," approved November 27th, 1865, there were, in the month of April, A. D. 1867,
26 struck off and sold to the treasurer of the said board of levee commissioners, for the levee tax due thereon and unpaid, in default of bidders therefor, the following lands, lying, being, and situate in the county of Washington, Mississippi, to wit: The west half of the southwest quarter of section eighteen, the west half of section nineteen, the northwest quarter of section thirty, in township fourteen, of range seven west; also, lots one, three, and four, of section twenty-four; lot seven, of section twenty-five; lot two, of section twenty-seven; all of section twenty-nine; all of section thirty; and lots one, two, three, four, and six, of section thirty-one, in township fourteen, of range eight west, containing twenty-seven hundred and twenty-nine acres, more or less.

And whereas the said party of the second part has purchased the said several parcels of land, and has well and truly paid to the said party of the first part the sum of seventeen hundred and eighty-three $\frac{31}{100}$ dollars, being the amount of the purchase-money thereof, with all accruing taxes and costs thereon, and ten per centum per annum upon
the whole amount from the date of purchase by said treasurer of
27 said board: Now, therefore, in consideration of the premises, the said party of the first part, as treasurer as aforesaid, hath remised, released, and forever quit-claimed, and by these presents doth sell, remise, and quit-claim unto the said party of the second part, all the right, title, and interest which as such treasurer he acquired in and to the said lands by virtue of the sale and purchase aforesaid: To have and to hold unto the said John D. Rouse, and to his heirs and assigns, with all and singular the tenements and appurtenances thereunto belonging.

In testimony whereof the said party of the first part hath hereto set his hand and affixed his seal the day and year first above written.

W. A. HAYCRAFT, [SEAL.]
Treasurer.

STATE OF MISSISSIPPI,
Washington County:

Personally appeared before me, R. L. Dixon, judge of the probate court in and for said county, W. A. Haycraft, treasurer of the board of levee commissioners for the counties of Bolivar, Washington, and Issaquena, who acknowledged that as such treasurer he signed, sealed, and delivered the foregoing deed on the day and year therein men-
28 tioned as his act and deed,

Given under my hand and seal this 26th day of March, 1869.

R. L. DIXON, [SEAL.]
Judge, &c.

STATE OF MISSISSIPPI,
Washington County:

I, John Fawn, clerk of the probate court in and for said county, do hereby certify that the foregoing deed, having revenue stamps of the value of two dollars thereon, was filed in my office for record M'ch 27th, 1869, and this day duly recorded in deed-book U, pages 404 and 405.

Given under my hand and official seal this 24th day of June, 1869.

[L. S.] JNO. FAWN, *Clerk.*

When plaintiff offered to read the deeds from Carson, sheriff, to Robinson, the levee treasurer, the defendants objected to the reading of the same for want of the proper revenue stamps, and it was then admitted and agreed that the failure to stamp said deeds was not fraudulently done, or with intent to defraud the revenue law, or to evade the same, or the payment and affixing of the stamp, as required by law, but
29 proceeded from casualty and inadvertence on part of the sheriff, and a belief on his part that no stamp was required to be affixed, and plaintiff then offered and proposed to affix the proper revenue stamps to said deeds in open court, which the court permitted him to do, and said stamps were then affixed in open court to said deeds, and the court then overruled the objection to the reading of said deeds, and permitted plaintiff to read the same, which he did; to all of which actings and rulings of the court, and to the reading of said deeds as evidence, defendants immediately excepted when the same occurred.

Plaintiffs then read in evidence a deed from W'm H. Bolton to plaintiff, in the following words:

Deed No. 4.

COUNTY OF WASHINGTON,
State of Mississippi, ss:

Know all men by these presents that I, William H. Bolton, treasurer of the county and State aforesaid, and ex-officio treasurer of the county-bridge fund of said county, for and in consideration of the sum of sixty-five dollars and twenty-three cents ($65 23) to me in hand paid
30 by John D. Rouse, the receipt of which is hereby acknowledged, have this day granted, bargained, and sold, and by these presents doth grant, bargain, and sell unto the said John D. Rouse, all right, title, and interest which I own or possess in and to the following lands situate, lying, and being in the county and State aforesaid, and known as W. ½ of S. W. ¼ sec. 18; W. ½ sec. 19; N. W. ¼ sec. 30, in town. 14,

range 7 west; lots 1, 3, and 4, sec. 24; lot 7, sec. 25; lot 2, sec. 27; all sec. 29; all of sec. 30, and lots 1, 2, 3, 4, and 6, sec. 31, town. 14, range 8 west, aggregating 2,729 acres; hereby conveying such title to said lands as I acquire by virtue of the purchase thereof by my predecessor in office, at sheriff's sale, in March, A. D. 1867, for bridge taxes due thereon March 1st, A. D. 1866.

In witness whereof, as such treasurer, I have hereunto set my hand and seal this 13th day of August, A. D. 1869.

W'M H. BOLTON,
Co. Treasurer.

[50-cent revenue stamp.]

(Erasures made before signing and acknowledging.)

STATE OF MISSISSIPPI,
County of Washington:

31 Personally appeared before me, John Fawn, clerk of the probate court in and for said county, William H. Bolton, county treasurer, who acknowledged that he executed the foregoing deed as such treasurer, on the day and date thereof, for the uses and purposes therein specified.

Given under my hand and official seal this 13th day of August, A. D. 1869.

[L. S.] JNO. FAWN, *Clk.*

STATE OF MISSISSIPPI,
Washington County:

I, John Fawn, clerk of the probate court in and for said county, do hereby certify that the foregoing deed, *having deed*, having revenue stamps of the value of $\frac{50}{100}$ dollars thereon, was filed in my office for record 13th day of August, 1869, and this day duly recorded in deed-book "U," page 587 and 588.

Given under my hand and official seal this 13th day of August, 1869.

[L. S.] JNO. FAWN, *Clerk.*

Receipt for taxes, marked No. 5.

Plaintiff then read a receipt for taxes for year 1869, paid by him, which is in the following words.

List of land in Washington County, Mississippi, assessed to Wade Hampton, and be-
32 *longing to Jno. D. Rouse, and subject to taxation on the 1st day of May, A. D.* 186 .

Parts of section.	Section.	Township.	Range.	No. acres.	Value per acre.	Whole value.	Tax.
W. ½ of S. W. ¼	18	14	7	80			80
W. ½	19	"	"	318			6 36
N. W. ¼	30	"	"	158			1 59
Lots 1, 3, & 4	24	"	8	262			5 24
Lot 7	25	"	"	57			1 14
" 2	27	"	"	111			2 22
All	29	"	"	598			11 96
"	30	"	"	642			12 84
Lots 1, 2, 3, 4, & 6	31	"	"	501			10 02
				2,727			$52 17
General county tax, 100 % on State tax							52 17
Special bridge " 30 % " " "							15 65
" jail " 70 % " " "							36 51
" levee " 5c. an acre							136 35
General bridge " 2r. " "							54 54
							$347 39

Received of Nugent and Yerger the sum of three hundred and forty-seven dollars and thirty-nine cents, in full payment of State, county, special, levee, and jail, and bridge taxes on the above lands, for the fiscal year, beginning on the first day of May, A. D. 1869, and ending on the first day of May, A. D. 1870, and of all taxes on the personal
33 property of said , for said year.

Greenville, Miss., March 11, A. D. 1870.

C. E. MORGAN,
Sheriff and Collector of Taxes,
Washington Co., Miss.
By O. G. MORGAN, *D. T. C.*

Received, Greenville, Miss., March 11th, 1870, of Nugent and Yerger the sum of two hundred seventy-two $\frac{70}{100}$ dollars, being the 10 cents per acre levee tax due the board of levee commissioners of Bolivar, Washington, and Issaquena counties for the fiscal year 1869, on the following lands, belonging to Jno. D. Rouse, to wit:

Parts of section.	Section.	Town.	Range.	Acres.	Tax.
W. ½ of S. W. ¼	18	14	7	80	8 00
W. ½	19	"	"	318	31 80
N. W. ¼	30	"	"	158	15 80
Lots 1, 3, and 4	24	"	8	262	26 20
Lot 7	25	"	"	57	5 70
" 2	27	"	"	111	11 10
All	29	"	"	598	59 80
"	30	"	"	642	64 20
Lots 1, 2, 3, 4, and 6	31	"	"	501	50 10
				2,727	$227 70

E. J. COMSTOCK,
Land Tax Collector of Washington County,
For Board of Levee Commissioners of
Bolivar, Washington, and Issaquena Counties.

34 Plaintiff then rested.

Defendants then offered and read to the jury the same deeds from A. B. Carson, sheriff, to Ike S. Robinson, levee treasurer, which had been read by plaintiff.

Defendants then read a copy of the order of board of police of Washington County, made at October term, 1866, in the words and figures following:

STATE OF MISSISSIPPI,
Washington County:

Board of police. October term, 1866.

Be it remembered that, at the regular meeting of the board of police of said county, held on the 8th day of October, 1866, among other orders made, were two in the words and figures following, to wit:

Orders of board police, marked "A."

"Ordered that a tax equal to two hundred per cent. be, and the

same is hereby, assessed on the amount of the State tax on all the taxable property in this county the present fiscal year for county purposes, and that the sheriff proceed to collect the same forthwith."

"Ordered that, for the purpose of erecting a court-house, jail, clerks' and sheriff's offices, and the public buildings of this county, a
35 special tax equal to two hundred per cent. on the amount of the State tax be, and the same is hereby, assessed on all the taxable property in this county the present fiscal year, and that the sheriff proceed to collect the same forthwith. And it is further ordered that the special tax assessed for the same purpose on the 5th day of February last be, and the same is hereby, rescinded and set aside, and that the sheriff, in collecting the tax herein assessed on this day, shall allow a credit to all parties who have paid the tax assessed on the 5th day of February aforesaid, for the amount by them so paid."

STATE OF MISSISSIPPI,
Washington County:

I, John Fawn, clerk of the chancery court in and for said county, and ex-officio clerk of the board of supervisors, hereby certify that the foregoing is a full and correct copy of the original orders, as they appear on the minutes of said board.

Given under my hand and official seal this 6th day of May, 1871.

[L. S.] JOHN FAWN, *Clerk*,
By JOHN DAVIS, *D. C.*

36 *List of land, marked "B".—(Copy of Land Register. See pp. 67 and 77.)*

Defendants then read in evidence the following list of lands:

List of lands struck off to the levee treasurer at levee tax sale, in Washington County, on the 11th day of April, A. D. 1867.

Part of section.	Sec.	Town.	R.	Acres.	Levee tax.	Costs.	State tax.
WADE HAMPTON.							
All	5	14	7	630	.....	.....	6 30
Lot 1	6	"	"	119	.....	.....	2 38
Lot 1, 2, 4, 5, & 6	7	"	"	462	.....	.....	9 24
N. W. ¼ & W. ½ S. W. ¼	8	"	"	240	.....	.....	4 80
N. ½ & W. ½ S. W. ¼	18	"	"	401	.....	.....	8 02
W. ½	19	"	"	318	.....	.....	6 36
S. W. ¼ & W. ½ S. E. ¼	29	"	"	240	.....	.....	2 40
N. W. ¼ & S. E. ¼	30	"	"	318	.....	.....	3 18
E. ½ E. ½	31	"	"	189	.....	.....	3 78
All	32	"	"	764	.....	1 25	15 28
All	7	14	8	628	.....	.....	12 56
Lots 1 & 3, & ½ of 2	8	"	"	140	.....	.....	2 80
Lots 1, 3, & 4	24	"	"	262	.....	.....	5 24
Lot 7	25	"	"	57	.....	.....	1 14
Lot 2	27	"	"	111	.....	.....	2 22
All	29	"	"	598	.....	.....	11 96
All	30	"	"	642	.....	.....	12 84
Lots 1, 2, 3, 4, & 6	31	"	"	501	.....	.....	10 02
32 acres in lot 2	32	"	"	32	.....	1 25	64

37 STATE OF MISSISSIPPI,
Washington County, ss:

Personally appeared before me, John Fawn, clerk chancery court within and for said county, M. Kretschmar, treas'r of the board of levee commissioners for Bolivar, Washington, and Issaquena Counties, who

being by me first duly sworn deposes and says that the foregoing, truly and correctly copied from pages 67 and 77, land register, in his office, appear to show the list of lands therein contained, assessed to Wade Hampton, to have been struck off and sold to the levee treas'r on the eleventh day of Ap'l, 1867.

He further deposes and says that it appears from said register that the sales of land (Washington Co.) begun on Ap'l 8th, 1867, and were concluded Ap'l 11, 1867.

M. KRETSCHMAR.

Sworn to and subscribed before me this 29th day of Nov., 1870.
JNO. FAWN, *Clerk.*

Defendants then read in evidence a deed from Haycraft, levee treasurer, to Wade Hampton, jr., in the words and figures following, to wit:

38 *Deed marked "C," from Haycraft.*

[Revenue stamp, 50 cts.]

This indenture, made and entered into this 23d day of April, A. D. 1869, by and between William A. Haycraft, treasurer of the board of levee commissioners for the counties of Bolivar, Washington, and Issaquena, of the first part, and Wade Hampton, junior, of the second part, witnesseth:

That whereas, in pursuance of the provisions of an act entitled "An act to incorporate the board of levee commissioners for Bolivar, Washington, and Issaquena Counties, and for other purposes," approved November 27th, 1865, there were, in the month of April, A. D. 1867, struck off and sold to the treasurer of the said board of levee commissioners, for the levee tax due thereon and unpaid, in default of bidders therefor, the following lands, lying, being, and situate in the county of Washington, Mississippi, to wit, all of section seven, and lots one and three, and one-fourth of lot two of section eight, all in township fourteen of range eight west; and whereas the said party of the second part has purchased the said several parcels of land, and has well and truly paid to the said party of the first part the sum of five hundred and nine

39 and $\frac{12}{100}$ dollars, being the amount of the purchase-money thereof, with all accruing taxes and costs thereon, and ten per centum per annum upon the whole amount from the date of purchase by said treasurer of said board:

Now, therefore, in consideration of the premises, the said party of the first part, as treasurer as aforesaid, hath remised, released, and forever quit-claimed, and by these presents doth sell, remise, and quit-claim unto the said party of the second part, all the right, title, and interest which, as such treasurer, he acquired in and to the said lands by virtue of the sale and purchase aforesaid: To have and to hold unto the said Wade Hampton, junior, and to his heirs and assigns, with all and singular the tenements and appurtenances thereunto belonging.

In testimony whereof the said party of the first part hath hereto set his hand and affixed his seal the day and year first above written.

W. A. HAYCRAFT, *Treasurer.* [SEAL.]

STATE OF MISSISSIPPI,
Washington County:

Personally appeared before me, S. C. Elliott, an acting and duly-qualified justice of the peace in and for said county, W. A. Haycraft,

40 treasurer of the board of levee commissioners for the counties of Bolivar, Washington, and Issaquena, who acknowledged that, as such treasurer, he signed, sealed, and delivered the foregoing deed on the day and year therein mentioned, as his act and deed.

Given under my hand and seal this 24th day of April, 1869.

S. C. ELLIOTT, *J. P.* [SEAL.]

STATE OF MISSISSIPPI,
Washington County:

I, John Fawn, clerk of the probate court in and for said county, do hereby certify that the foregoing deed, having revenue stamps of the value of $\frac{50}{100}$ dollars thereon, was filed in my office for record, 29th day of April, 1869, and this day duly recorded in deed-book "U," pages 560 and 561.

Given under my hand and official seal this 5th day of August, 1869.

[L. S.] JNO. FAWN, *Clerk.*

List of lands, marked D.

Defendants then read a list of lands in the words and figures following:

List of lands sold in Washington County, Mississippi, for levee-tax due on them, March
41 *1st, 1867, to Ike S. Robinson, levee-treasurer of Bolivar, Washington, and Issaquena Counties, on April 8th, 1867.* (Page 1.)

Parts of sections and owners' names.	Section.	Township.	Range.	Acres.	Total acres.	Tax.	Deed.	Clerk's fees.	Total taxes & costs.
Sold April 9th, 1867. (Page 3.) Sold April 10th, 1867. (Page 4.) Sold April 11th, 1867. (Page 6.)									
WADE HAMPTON. (Page 29.)									
All	5	14	7	630					
Lot 1	6	"	"	119					
Lots 1, 2, 4, 5, & 6	7	"	"	462					
N. W. ¼ & W. ½ S. W. ¼	8	"	"	240					
N. ½ & W. ½ S. W. ¼	18	"	"	401					
W. ½	19	"	"	318					
S. W. ¼ & W. ½ S. E. ¼	29	"	"	240					
N. W. ¼ & S. E. ¼	30	"	"	318					
E. ½ E. ½	31	"	"	189					
All	32	"	"	764	3,686	368 10	1 00	25	369 35
WADE HAMPTON. (Page 48.)									
All	7	14	8	628					
Lots 1 & 3, & ½ of 2	8	"	"	140					
" 1, 3, & 4	24	"	"	262					
" 7	25	"	"	57					
" 2	27	"	"	111					
All	29	"	"	598					
All	30	"	"	642					
Lots 1, 2, 3, 4, & 6	31	"	"	501					
32 acres in lot 2	32	"	"	32	2,971	297 10	1 00	25	298 35

42 STATE OF MISSISSIPPI,
Washington County:

I hereby certify that the foregoing is a true and correct abstract from the list of lands sold to levee treasurer, and on file in my office, showing the heading of list, page one; that on page 3 commences list of lands

sold April 9th; on page 4 commences list of land sold April 10th; and on page 6 the list of land sold April 11th commences and continues to end of list; that said list shows the sale of the above-described lands assessed to Wade Hampton to have been made April the eleventh, A. D. 1867.

In testimony whereof I have set my hand and affixed the seal of the chancery court of said county this 29th day of November, A. D. 1870.

[L. S.] JNO. FAWN, *Clk.*

Defendants then read the deposition of L. B. Valliant, as follows:

Deposition of L. B. VALLIANT, (taken by consent, before William A. Haycraft, a commissioner of the chancery court of Washington County, Mississippi, to be read in a certain suit pending in the district
43 court of the United States for the southern district of Mississippi, in behalf of the defendants—wherein J. D. Rouse is plaintiff and Wade Hampton is defendant, numbered , on the docket of said court,) who being first duly sworn to testify the truth, the whole truth and nothing but the truth, says:

I am a lawyer, living and practising my profession in Greenville, Miss. In the spring of 1869, the precise date I do not now remember, Maj. Wade Hampton, jr., called on me to engage my professional advice and assistance in and about the redeeming certain lands belonging to his father which had been sold to the board of levee commissioners for taxes. In company with Maj. Hampton I called at the office of W. A. Haycraft, esq'r, who was then the treasurer of said levee commissioners, to arrange the business in which Maj. Hampton desired my assistance. I do not now remember whether or not Maj. Hampton applied to redeem all of his father's land that then stood forfeited for taxes, or what par-
44 ticular land he did apply to redeem, but I remember that Mr. Haycraft, the treasurer, informed us that he could do no more at that time than receive our application, because there were so many persons in his office making similar applications—that is applications to redeem or purchase lands—that it was a physical impossibility for him to make out the necessary papers. I know it was about the time when the period for redemption of lands sold for the levee tax in 1867 was expiring, and the applications to redeem and purchase were very numerous. I was in the habit of visiting the levee treasurer's office about that time, and I remember that there were more persons in the office on that day than I had ever seen there before. Maj. Hampton then made an application either to redeem or purchase certain of his father's lands and Mr. Haycraft made a memorandum of it. Some time afterwards I received from Mr. Haycraft, as treasurer of the levee board, a deed to Maj. Wade Hampton, jr., for a part of his father's lands. This deed was made in pur-
45 suance of the application I have above mentioned, but whether it embraced all the lands Maj. Hampton at that time applied to redeem or purchase I do not remember. At the time I visited the levee treasurer's office, as above mentioned, and made the application, as I have stated, the treasurer informed me that he had certain funds of Maj. Hampton in his hands at the time, and when he delivered the deed to me I paid him no money, but he deducted the purchase-money out of the funds that he said were in his hands, and thus delivered me the deed which recited a receipt for the purchase-money. When Maj. Hampton applied to me in this matter for advise, his idea, as he expressed it to me, was to redeem the lands, but under my advice he made a purchase. The application to Mr. Haycraft by Maj. Hampton on the day I have

first above mentioned, may have been to purchase a part and redeem another part, or to redeem the whole—I do not now remember. Some time during last month Maj. Hampton called on me and asked if I remembered the day on which we made the application, but I did not
46 remember, but in company with Maj. Hampton, I then went to the office of the levee treasurer and examined the land-sale book, and there found a pencil memorandum in the handwriting of Mr. Haycraft indicating that this application was made on the 10th day of April, 1869. I also then examined the book and found that the lands of Gen'l Wade Hampton had been sold to the levee treasurer on the 11th day of April, 1867.

L. B. VALLIANT.

Subscribed and sworn to before me this 16th day of May, A. D. 1871.
W. A. HAYCRAFT, *Comm'r.*

Defendants then read mortgage from Wade Hampton to J. M. Seixas, as follows:

Mortgage from Hampton, marked "E."

This indenture, made and entered into this 31st day of January, A. D 1867, between Wade Hampton, of the first part, and J. M. Seixas, surviving partner of the firm of Gladdin and Seixas, late factors and commission merchants, domiciled in the city of New Orleans, Louisiana, of the second part, witnesseth:

That the party of the first part, for and in consideration of the
47 sum of ten dollars to him in hand paid, at and before the ensealing and delivery of these presents, the receipt of which is hereby acknowledged, and for the further considerations hereinafter mentioned, hath granted, bargained, sold, and by these presents doth grant, bargain, sell, to the said party of the second part those certain tracts or parcels of land lying, being, and situate in the county of Washington, Mississippi, known as the Richland plantation, and designated as follows, to wit: Lots one, three, and four, of section twenty-four, township fourteen of range eight west, containing two hundred and sixty-two acres; lot seven of section twenty-five, same township and range, containing fifty-seven acres; lot two, section twenty-seven, same township and range, containing one hundred and eleven acres; all section twenty-nine, same township and range, containing five hundred and ninety-eight acres; all of section thirty, same township and range, containing six hundred and forty-two acres; lots one, two, three, four, and six, section thirty-one, same town-
48 ship and range, containing five hundred and one acres; the west half of section nineteen, township fourteen, range seven west, containing three hundred and eighteen acres; the northwest quarter of section thirty, same township and range, containing one hundred and sixty acres; and the west half of the southwest quarter of section eighteen, same township and range, containing eighty acres—in the whole twenty-seven hundred and twenty-nine acres: To have and to hold unto the said J. M. Seixas, surviving partner, &c., and to his heirs or assigns forever. Upon condition, nevertheless, that whereas the said party of the first part is justly indebted to the said party of the second part, as such surviving partner, in the sum of forty thousand dollars, as evidenced by twelve promissory notes of even date herewith, all drawn by the party of the first part, payable to his own

order at the office of Mess. Conner and Seixas, New Orleans, and endorsed by him, bearing interest at the rate of eight per centum per
49 annum after maturity, until paid, for the amounts, and maturing as follows, to wit: Four notes for five thousand dollars each, due, respectively, on the fifth days of October, November, and December, 1867, and the fifth day of January, 1868; and eight notes for twenty-five hundred dollars each; two due on the fifth day of October, 1867; two due on the fifth day of November, 1867; two due on the fifth day of December, 1867, and two due on the fifth day of January, 1868: Now if the said party of the first part shall well and truly pay off and discharge the said several promissory notes as they respectively become due and payable, and all interests thereon, according to the tenor and effect thereof, then this indenture to be void, otherwise to remain in full force and effect. In testimony whereof the said party of the first, has hereto set his hand and affixed his seal the day and year first above written.

[SEAL.] WADE HAMPTON.

STATE OF MISSISSIPPI,
Washington County:

Personally appeared before me, a member of the board of police of said county, Wade Hampton, who acknowledged that he signed,
50 sealed, and delivered the foregoing deed on the day and year therein named, as his act and deed.

Given under my hand and seal this 9th day of February, A. D. 1867.

THO'S S. REDD, JR. [SEAL.]

STATE OF MISSISSIPPI,
Washington County:

I, T. B. Gray, clerk of the probate court of the county and State aforesaid, do certify that the foregoing mortgage, having revenue stamps of the value of forty dollars thereon, was filed for record in this office, Feb'y 18th, 1867, and this day recorded in book T, pages 55 and 56.

Given under my hand and official seal this 19th day of February, A. D. 1867.

[L. S.] T. B. GRAY, *Clerk*,
By B. A. OFFUTT, *D. C.*

STATE OF MISSISSIPPI,
Washington County:

I, Jno. Fawn, clerk of the circuit court in and for said county, hereby certify that the foregoing is a full, true, and correct copy of the original deed now of record in my office.

Given under my hand and the seal of said court this 26th day of April, A. D. 1870.

[L. S.] JNO. FAWN, *Clerk.*

51 Defendants then offered as witness Wade Hampton, jr., who testified as follows:

WADE HAMPTON, junior, being duly sworn, deposes and answers as follows:

About 10th of April, 1869, I went, as agent of Wade Hampton, to the office of Mr. Haycraft, levee treasurer, and offered to redeem the lands in controversy, and from the press of business could not attend to it. In the absence of my attorney, Gen'l Ferguson, I went to Mr. Valliant

to see what could be done about it, and asked said Valliant to attend to it. I am able to state positively that it was on the 10 of April, 1869, or before that, because my memory has been refreshed by the record. I had the means to redeem said lands and made the application then. These means were in the hands of Maj. Haycraft, in his office. I mean by the press of business in Maj. Haycraft's office then, that there were so many applicants waiting to redeem lands before me I could not then be attended to. I went to redeem the places known as Wildwoods and Richland. The deed now shown me, marked No. 6, is the deed to
52 the place called Wildwoods.

Said deed is here read. (See page 38 of this transcript for said deed.)

This deed does not embrace the lands sued for in this action. The lands sued for in this action are the lands known as Richland. I did not redeem Richland at that time because of the press of business, as before stated. I did afterwards redeem Wildwoods, but did not also redeem Richland, because I was under the impression that the time had expired. My application, made about the 10th April, 1869, was to redeem both Wildwoods and Richland. I did not redeem Richland because the time of redemption had expired, and I did not purchase it because the levee treasurer had previously sold it. I offered to redeem these lands, but the press of business in the levee treasurer's office prevented it, and that pressure continued until the time of redemption had passed.

Same cross-examined:

53 I had levee bonds in Maj. Haycraft's office. Some of them had been converted into currency; I don't know how much. Of my own personal knowledge I cannot state the character of means or bonds in the hands of said levee treasurer. These means spoken of were my means, and not the means of Gen'l Wade Hampton. Gen'l Ferguson deposited these bonds with the levee treasurer. I don't know when he made the deposit. Gen'l Ferguson acquired these bonds from me some months previously. I think Gen'l Wade Hampton was at the time at Wildwoods, in Washington County. I did not specify to the levee treasurer, by township and numbers, what particular lands I desired to redeem. I told him that I wished to redeem the lands sold as father's. I don't remember that I told him what year's sale I proposed to redeem, and did not specify any particular land I wished to redeem, by numbers, but mentioned the names of the places. I offered to redeem the lands out of the means in the hands of Maj Haycraft. I cannot specify
54 what number of bonds, nor the amount, nor what bonds they were, in Major Haycraft's possession, nor by whom the bonds were made. Major Haycraft told me that a portion of the lands had been previously sold to the plaintiff in this action. I did not offer to pay in money the amount of the purchase. I offered the bonds that were then marketable. I did not, when Wildwood was purchased, attend at Greenville; Mr. Valliant went. After the purchase of Wildwood I received some money from my attorney, who got it from Maj. Haycraft, as proceeds of the sale of bonds, to the amount of one thousand dollars, in June, 1869. It was in money. I did not subsequently redeem a portion of the Richland tract. I don't know that Gen'l Wade Hampton did. It is my impression that I had these means in the hands of the levee treasurer on the 26th March, 1869. I proposed to redeem these lands as agent for Gen'l Wade Hampton. I did not then have or set up any claim to them myself.

55 Re-examined:

When I applied to redeem these lands Major Haycraft exhibited a map of the county to me, and it was perfectly understood between Major Haycraft and myself what lands I proposed to redeem, and also the taxes of what year. I know that some of the proceeds of these bonds were applied to the redemption of Wildwoods, and Wildwoods was redeemed entirely out of said proceeds. Major Haycraft knew at the time what means were to be used in redeeming said lands, and he made no objection, and the only reason why the lands were not then redeemed was because of the press of business in his office.

Defendants then offered as a witness A. B. Carson, who testified as follows:

ANDREW B. CARSON, being duly sworn, deposes and answers as follows:

I was sheriff and tax-collector and assessor of Washington County in the years 1867–1868. I was removed from office by military
56 authority on the 13th day of February, 1868. I conducted the sales of lands, delinquent for taxes, of Washington County, for the year 1867, under the levee law. I don't remember the days upon which I sold the lands delinquent for taxes, but I commenced on the day fixed by law, and continued from day to day until sales were made of all delinquent lands. The sales were made between eleven o'clock in the morning and four o'clock in the evening. If there were full sections I commenced by offering lands in the northeast quarter, offering the east ½ of the N. E. ¼, being 80 acres, the first legal subdivision; and I then offered the next 80 acres, viz, the W. ½ of N. E. ¼, and continued on in that way until I sold all the lands of the party in that section. At the end of each day I made out a list of the sales, if I had time. Most of the sales were to the levee treasurer. I made out separate lists—that is, an individual list, and a list of lands struck off to the levee treasurer.

I filed the original list in the office of the probate clerk of Wash-
57 ington County, and, I am not certain, but I think I filed one in the office of the levee treasurer. Those lists contained a description of the lands sold on each day, and the date of each sale. After the time of the sales spoken of to the levee treasurer I did not collect any taxes for the State and county upon such lands. I rec'd a credit for such taxes from the auditor or county treasurer, as the case might be. The date of the sale was probably at the head of each page of said lists, or at some other part of it. In making up the deeds to the purchasers they were drawn from those lists, showing the dates, amounts, and names of purchasers; and made on printed forms furnished by the levee treasurer. I drew up those deeds sometimes at the end of each day's sales, and sometimes at the end of the whole, as I had time. I filed those deeds in the office of the probate clerk of Washington County, as I made them out; sometimes 4 or 5 days after I made them out. I had

an immense number of deeds of lands sold for taxes that year
58 to make out. I don't know how many; I think I sold about three hundred thousand acres of land for the levee tax, besides lands sold for State, county, and bridge taxes, and I made out the deeds and filed them as I could. The levee treasurer told me to cancel such sales of lands upon which taxes had been paid before I filed the lists of sales or deeds. I did, in all such cases, cancel the sales, or refrain from making out the deeds where not already made out. I did not stamp any of these deeds. Major T. B. Gray was clerk of the probate court of

Washington County at the date of the filing of the original deeds from me as sheriff, as aforesaid, to the purchaser of lands sold as the lands of Gen'l Wade Hampton in that county; does not recollect the date of the sales of Gen'l Hampton's lands. The county and special tax was 200 per cent. upon the State tax for the year 1866, collected in 1867; and the bridge-tax was 2c. per acre on all lands in the county; and the court-house tax was 200 per cent. upon the State tax, for the purpose of building court-house and other public buildings.

59 Cross-examined:

As far as I know, I carried out all the requirements of the law in reference to the sale and execution of deeds for lands sold for taxes under the levee law of 1865. I made out the lists every day, as far as I was able, and made out the deeds from the lists with as much dispatch as possible, considering the amount of business I had to do, and handed the deeds to the probate clerk for file as soon as I could, with reference to the amount of business I had to do.

Re-examined:

I did not hand in the lists to the probate clerk until after I had made out the deeds. I did not hand in the lists to the probate clerk separately, but handed them in in a batch, tacked together. That is my impression. I cannot recollect distinctly. The lists of lands sold to individuals were tacked to themselves separately, and the lists of lands sold to the levee treasurer were tacked to themselves separately, and thus handed to the probate clerk. The last page of each batch
60 was the only one certified to and signed by me, as far as I can recollect, it having been four years since I did it.

Defendants then offered W'm A. Haycraft as a witness, who testified as follows:

WILLIAM A. HAYCRAFT being duly sworn, deposes and answers as follows:

I held the office of secretary and treasurer of the levee board for the counties of Washington, Bolivar, and Issaquena, in part of the years 1867, 1868, and to May, 1869. As appears from the records in my office, and from my personal recollection, Wade Hampton, junior, applied to me to redeem the lands of Gen'l Wade Hampton on the 10th April, 1869, which had been sold for the levee tax of 1866, and knocked off to the levee treasurer. I don't recollect whether he made the application as agent for his father or not. A part of the lands which he stated to me he desired to redeem or purchase had been previously sold by me to J. D. Rouse, according to the provisions of the 15th section of the levee law of 1865. I informed him of that sale, and that to redeem he would have to pay, exclusively in currency, the levee tax, State
61 and county tax as paid by Mr. Rouse, and 50 per cent. per annum thereon, from the date of the sale in 1867 to the levee treasurer, at which he expressed surprise and did not proceed any further as to those lands; but he immediately made application to purchase other lands of Gen'l Wade Hampton, which purchase was afterwards consummated. The applications which had been made for the redemption of lands were very numerous; so much so that I could not have made out on that day, (10th April, 1869,) the necessary papers for the redemption of the lands sold as those of Gen'l Wade Hampton, if Major Hampton had then applied to redeem them. I do not now remember that he made any further application to redeem the lands sold to Rouse after I

told him the terms upon which he would have to redeem them, but I do remember that he applied immediately on that day to redeem other lands which had been sold as the lands of Gen'l Wade Hampton, and I noted that fact on the land register kept by me as levee treasurer, and also that the funds necessary to make that redemption were
62 deposited with me, and the lands which he proposed to purchase were conveyed to Wade Hampton, junior, by deed by me on the 23rd day of April, 1869. About the month of March, 1869, Gen'l Ferguson, as agent for Wade Hampton, junior, deposited with me a bond for the sum of $4,244 04, issued by the levee board, created by the act passed in 1867, and commonly known as the liquidating levee board, to be sold for the benefit of Wade Hampton, jun'r, at a price not less than fifty cents on the dollar. I have the envelope now in my possession upon which there is a memorandum, made at the time, showing the kind of bond and its amount, and its ownership. That memorandum is in these words and figures:

"Liq. bond, past due, for $4,244 04, belonging to Wade Hampton, j'r, to be accounted for as within."

W. A. HAYCRAFT."

I was to sell the bond or any part of it and hold the proceeds subject to the order of Gen'l Ferguson or Wade Hampton, jun'r. I had disposed of something in the neighborhood of $1,500 00 of the bond before the 10th April, 1869. A portion of the remainder of the bond was
63 used by Wade Hampton, jun'r, in purchasing the land which I sold to him, and the balance was afterward either sold or returned to General Ferguson. I sold portions of this bond from time to time at 50c. or over, and held the proceeds subject to the order of Gen'l Ferguson or Wade Hampton, jun'r. I did this as an act of accommodation to the parties, and not in my official capacity as levee treasurer. The proceeds of the bond, if sold at 50c. on the dollar, would have been sufficient to have purchased the lands sold Rouse as well as those he, Wade Hampton, jun'r, did purchase. Small bonds of this kind were generally sold at about 55c. on the dollar. Such a large bond as this was not readily convertable into money at one time at 50c. on the dollar. I don't know that the bulk of the sales to the levee treasurer were made between the 9th and 11th of April, 1867. I was under the impression, and so the public was, that the 11th April, 1869, was the last day for redeeming those lands, and that accounts for the great number of applica-
64 tions for redemptions about that time. When not able to attend to the applications at the time they were made, I filed the list of land applied for, or noted the fact on the margin of the register. The land register in the levee treasurer's office shows that the sale made to the levee treasurer, bought by Rouse, was made on the 11th day of April, 1867. In making sales or allowing parties to redeem, and in making deeds, I was guided by entries on the register in the office. Parties desiring to redeem lands were required to pay all levee, State, county, and special taxes and costs, and 50 per cent per annum on the same. The total county and special taxes for the year 1866 was 400 per cent. on the amount of the State tax on lands, all of which was levied by the board of police. Mr. M. Kretschmar was my successor in the office of secretary and treasurer of the levee board of Washington County. Wade Hampton, jun'r, engaged Judge Valliant to represent him in
65 the matter of the purchase, and receive the deed from me, which he did.

Cross-examined.

My impression is that I had disposed of about $1,500 of the levee bond of Wade Hampton, jun'r, prior to the 10th April, 1869. Some portion of this amount had been disposed of at 50c. and some at 55c., all in U. S. currency. I believe I had all of the proceeds of said $1,500 of the bond in my hands on the 10th April, 1869. I have no recollection of any part of it having been drawn out, which would leave about $750 or $800 in currency belonging to Wade Hampton, j'r, in my hands at that time. Wade Hampton, j'r, had no other money in my hands at that time, but did have the balance of said liquidating levee bond in my possession, amounting to about $2,750 00 with five per cent. interest for about 2 years on the whole bond. The reason I did not sell the whole of the bond before the 10th April, 1869, was, so far as I remember, that I did not have applications for the whole of it. There
66 was a large number of those liquidating levee bonds in the market at that time. There was no fixed market-price for such bonds at that time. The sales of them that were effected @ 50c. to 55c. were usually made by parties wishing to redeem lands. I believe the balance of the bond could have been sold about the 10th April, 1869, @ 40c. to 45c. on the dollar, in bulk. Wade Hampton, j'r, on the 10th left the balance of the bond in my possession with giving any further instructions about it. It was soon after withdrawn by Gen'l Ferguson. Wade Hampton, j'r, did not offer me any money to redeem the lands sold to Rouse, but enquired as to the amount of the proceeds of the levee bond on hand. The liquidating levee tax which could be paid in this class of bonds was about 20 to 25 per cent. of the whole amount which was required to redeem. The liquidating levee bonds could only pay the liquidating levee tax herein referred to.

67 Defendants then offered as a witness S. W. Ferguson, who testified as follows:

S. W. FERGUSON, sworn, testified as follows:

As att'y for Wade Hampton, jr., I deposited with W. A. Haycraft over four thousand two hundred and forty-four dollars $\frac{17}{100}$, some time in Feb'y or March, 1869. This was same bond referred to by Mr. Haycraft—to be sold, and proceeds held subject to the order of myself or Mr. Hampton, jr. The price stipulated, not less than 50c. on the dollar. It was all sold by Mr. Haycraft or myself, I giving parties who came to me to purchase levee scrip an order on Mr. Haycraft for it, and they generally paid him the money. No part of the bond was returned to me by Mr. Haycraft, except about $40 or $44, which I requested him to retain as I wished to use it myself. For all the rest I received the money, except that portion which was used for the purpose of paying the taxes on Wildwood. T. B. Gray was clerk of the probate court of Washington County during all the year 1867, and until some
68 time in 1868. John Fawn succeeded him as clerk. Fawn was not in that office as clerk in May, 1867. I have examined the tax-list on file in the office of the probate (now chancery) clerk, the list on file with the clerk of the board of levee commissioners, and the land register in the latter office, which is made out from the list of lands sold for the 10c. levee tax. I am speaking of the land register of the sales of 1867, for the taxes of 1866. They all show that the sale was made on the 11th day of Ap'l, 1867.

Cross-examined:

In saying that a portion of the bond was used in paying the taxes on

Wade Hampton's land, I mean that a part of it was used in making the purchase from Haycraft, levee treasurer, of the Wildwood place by Wade Hampton, jr., in 1869. The liquidating levee bond was payable to bearer, I think. The bond was issued in favor of Gen'l Wade Hampton or bearer. Some time in Nov. or Dec., 1868, Wade Hampton, jr., obtained the bond from Wade Hampton, s'r, his father. It was the first instalment, which bore date June 1st, 1867. I do not know on
69 what account or what consideration Wade Hampton, jr., rec'd it from his father. On the 29th Dec., 1868, Gen'l Hampton went into bankruptcy, and remained in possession of the land, no assignee being appointed, as I remember, until the latter part of April. General Hampton remained in possession of the land during the year' 1869, 1870, and up to the present time—I mean the land in controversy. Very nearly all of said land is cleared; I cannot positively state how much. Three-fourths of the entire tract, I think, is cleared. I am not sure that the steam-gin is on that portion of the land in controversy; the negro quarters and other improvements are. Those quarters would accommodate from 100 to 150 hands. Only a portion of the land was in cultivation by Gen'l Hampton during the year' 1869 and '70, but am unable to state how much. There are 2 tracts of land called Richland and Bear Garden, not divided by a fence. Of the latter, I think, not more than 20 or 30 acres in cultivation. From $5 to $10 per acre was usual as money-rent during the year' 1869 and '70, or from
70 60 to 70 lbs. of lint cotton per acre. The contracts, however, were generally for a portion of the crop. I was assignee of Gen'l Hampton in bankruptcy. I collected no rent from him for the years 1869 and 1870. I sold the equity of redemption in Wildwoods and Richland to Ste. Duncan, but Bear Garden was sold under proceedings in the U. S. court. The order of sale of equity of redemption was made, I think, in the latter part of April or May, 1869, but cannot state positively when it was consummated. The equity of redemption in Wildwood and Richland was sold for $500 00. Mr. Rouse applied to me for the purchase of the equity of redemption, and when I informed of the fact I had sold it for $500 00, declared he would not give that price for it, saying it was a great deal more than he would be willing to give. I do not recollect the price of cotton in 1869 and 1870. I think it got no lower than 14c. and part of the time reached 30c.

Re-examined:

In searching for the original deeds for the land in controversy
71 sold to the levee treasurer, I went, about the month of Nov., to the office of the clerk of the ch'y court of Washington County, and there found the 2 deeds in said office, and rec'd the same from John Fawn, clerk of said court, and gave him a receipt for them. These two deeds I brought to Jackson, to be used on the trial of the case; and, as the case was continued, I returned the deeds to the office of the ch'y cl'k, and again, a few days before the present term, I went to the office of said clerk of the ch'y court, and obtained the two deeds from him, giving a receipt for them, and brought them down to be used on the trial of this cause. These 2 deeds are here now, in my possession. When I first saw these deeds, I asked Mr. Fawn how he came to mark these deeds filed May 14th, 1867, when he was not the clerk until nearly a year after that time. He answered that he marked them filed when the parties wished them recorded, and that he presumed they were filed May 14th, 1867, as that was the day on which they were acknowledged. He was not a deputy in the office at any time during the year 1867;
72 he was never deputy in that office, being appointed clerk, as I

believe, March 11th, 1868. I think the lands in controversy are worth from 50 to 60 dollars per acre.

This was all the evidence in the cause.

The court thereupon instructed the jury that the act of the legislature of the State of Mississippi approved November 27, A. D. 1865, entitled "An act to incorporate the board of levee commissioners for Bolivar, Washington, and Issaquena Counties and for other purposes," assessed a uniform tax of ten cents an acre upon all the lands mentioned therein for the purposes specified in the act, and that said law was constitutional and within the legislative power of the legislature of the State of Mississippi, and authorized the sheriff of Washington County to sell the lands in controversy for the levee taxes assessed thereby for the year 1866, at the time and in the manner specified in said law, if the taxes had not been paid at the time fixed by said law, or before the sale; and that, if the jury believed, from the evidence, that the
73 levee taxes, so assessed by said law for the year 1866, had not been paid as required by said law, and that they remained unpaid until the 19th and 23rd days of April, 1867, respectively, when said lands were sold by the sheriff of Washington County for said taxes to Ike S. Robinson, the levee treasurer, and conveyed to him by the deeds read in evidence from Sheriff Carson to said Robinson, then such sale and conveyance vested the title of the owners of said land in said levee treasurer, provided the sheriff complied with the requirements of the law in making said sales; and that the deeds of the sheriff to the levee treasurer were prima-facie evidence that the land was subject to the tax for the non-payment of which it was sold, and that all the pre-requisites of said sale had been complied with.

That this sale was made subject to a right upon the part of the owner to redeem said lands within two years from the day of sale, saving the rights of minors and persons non compos mentis, who have three years to redeem after they come of age or of sane mind.

74 That, under said act, the levee treasurer had power to sell said land at private sale, provided he could obtain from a purchaser the amount of the purchase-money for which it had been sold to him, with all accruing taxes and costs, with ten per cent. per annum upon the whole amount from the date of purchase.

That the original owner of the land could redeem from such purchaser or from the levee treasurer before he made sale of it, at any time within two years from the day of sale, with the saving in favor of minors and persons non compos mentis; but such redemption could only be made by the owner or his agents or attorneys, upon the payment of the purchase-money for which it was sold to the levee treasurer, with all subsequent taxes due thereon, and fifty per cent. per annum interest upon the whole amount; and that the sale and conveyance of the lands in controversy by the sheriff to Ike S. Robinson, and the subsequent sale and conveyance of them to the plaintiff by the deeds read in evi-
75 dence, vested in the plaintiff all the title of Wade Hampton and all other persons interested in said lands, subject to the right of redemption as before stated, and entitles plaintiff to recover, provided the jury believe from the evidence that the taxes had not been paid before the sale, and that the sale was conducted according to law, and the deeds of the sheriff to the levee treasurer are prima-facie evidence of these facts.

That a failure on the part of the sheriff to file the deed to the levee treasurer in the probate clerk's office on the day of sale, would not

avoid the title acquired by the levee treasurer under the deed. The provision of the law on that subject is only directory; and, if the deed was filed in the office of the clerk as soon as the sheriff could do so, allowing a reasonable time for that purpose, having reference to the business in his office, that would be all that the law required.

Under the statute by which the tax was levied, and the sale made for non-payment, the owner of the land, or his agents, or attorneys, could redeem within two years from the day of sale, upon payment of
76 the purchase-money, for which it was sold, with all subsequent taxes due thereon, and fifty per cent. per annum interest upon the whole amount. But the defendant, Wade Hampton, having been adjudicated a bankrupt, on his own application, after the land was sold for taxes, had thereby ceased to be the owner of the land, and lost the right to redeem, and even if he had not lost such right to redeem, that right could only have been exercised by applying within two years from the day of sale, either to the levee treasurer or the clerk of the probate court, and paying or tendering to such officer the amount for which the land sold for taxes, with all subsequent taxes due thereon, and fifty per cent. per annum interest on the whole amount.

An application on the 10th of April, 1869, made by Wade Hampton, jr., to the levee treasurer, to purchase or redeem all the lands of his father, which had been sold for taxes, would not be equivalent to a redemption, unless he tendered the money necessary for that purpose, or went there prepared to make payment or tender thereof, either
77 in gold or silver, or in United States currency, and a tender or offer to redeem, by making a payment in the bonds or obligations of the liquidating levee board, was not a sufficient tender or offer to redeem.

To all which instructions and rulings of the court, the defendants, at the moment, and before the jury retired from the box, excepted, and their exceptions were allowed.

They excepted to the following instructions as given, viz:

"That the act of the legislature of Mississippi, approved 27th day of November, 1865, entitled 'An act to incorporate the board of levee commissioners for Bolivar, Washington, and Issaquena Counties, and for other purposes,' was constitutional and within the legislative power of the legislature of Mississippi."

Also the instruction, "That the deeds of the sheriff to the levee treasurer, (offered in evidence in this cause,) were prima-facie evidence that the land was subject to the tax for the non-payment of which it was sold, and that all the pre-requisites of said sale had been complied with."

And also the instruction, "That the sale and conveyance of the lands in controversy by the sheriff to Ike S. Robinson, and the subsequent sale and conveyance of them to the plaintiff by the deeds read in
78 evidence, vested in the plaintiff all the title of Wade Hampton, and all other persons interested in said lands, subject to the right of redemption, as before stated, and entitles the plaintiff to recover, provided the jury believe from the evidence that the taxes had not been paid before the day of sale, and that the sale was conducted according to law, and the deeds of the levee treasurer are prima-facie evidence of these facts."

And also the instruction, "That a failure on the part of the sheriff to file the deed to the levee treasurer in the probate clerk's office on the day of sale would not avoid the title acquired by the levee treasurer

under the deed. The provision of the law on that subject is only directory, and if the deed was filed in the office of the clerk, as soon as the sheriff could do so, allowing a reasonable time for that purpose, having reference to the business of his office, that would be all the law requires."

And also the instruction, that "defendant, Wade Hampton, having been adjudicated a bankrupt on his own application after the
79 land was sold for taxes had thereby ceased to be the owner of the land, and lost the right to redeem, and even if he had not lost such right to redeem, that right could only have been exercised by applying within two years from the day of sale, either to the levee treasurer, or the clerk of the probate court, paying or tendering to such officer the amount for which the land sold for taxes, with all subsequent taxes due thereon, and fifty per cent. per annum interest on the whole amount."

And also the instruction that, "An application on the 10th of April, 1869, made by Wade Hampton, jr., to the levee treasurer to purchase or redeem all the lands of his father, which had been sold for taxes would not be equivalent to a redemption, unless he tendered the money necessary for that purpose, or went there prepared to make payment or tender thereof, either in gold or silver, or in United States currency, and a tender or offer to redeem said lands by making a payment in the bonds or obligations of the liquidating levee board, was not a sufficient tender or offer to redeem."

80 The object of this repetition and enumeration of said instructions being to have the benefit of a revision in the appellate court of all said rulings and instructions.

And thereupon the jury retired and returned a verdict for the plaintiff. The defendants thereupon entered a motion for a new trial, in the words and figures following:

DOE, EX DEM. J. D. ROUSE,
vs.
ROE, I. E. WADE HAMPTON. } Ejectment.

Motion by defendant to set aside the verdict, and for a new trial.

1st. Because the court erred in the admission of evidence offered by the plaintiff.
2nd. Because the court erred in instructing the jury.
3rd. Because the jury found contrary to law.
4th. Because the jury found contrary to the evidence.

WHARTONS,
For Motion.

YERGER AND ADAM,
Contra.

Which being heard and considered was overruled by the court; to which action of the court in overruling said motion the said de-
81 fendants excepted at the time and tendered this their bill of exceptions, which is signed, sealed, and made part of the record; which was done accordingly, on this 24th day of May, 1871.

ROBERT A. HILL, [SEAL.]
Judge.

Filed May 24th, 1871.

G. T. SWANN, *Clerk.*

And on the 24th day of May, A. D. 1871, the defendant, Wade Hampton, by his attorneys, Messrs. T. J. and F. A. R. Wharton, filed his petition for a writ of error, to wit:

To GEORGE T. SWANN,
Clerk Circuit Court of United States for the Southern District of Mississippi:

The undersigned, Wade Hampton, feels aggrieved by a judgment rendered at the May term, 1871, of the circuit court of the United States for the southern district of the State of Mississippi, in a certain cause wherein John Doe, ex dem. John D. Rouse, is plaintiff, and Richard Roe, i. e. Wade Hampton, is defendant.

Wherefore he prays that a writ of error, to operate as a supersedeas, may issue, returnable to the next term of the Supreme Court of the United States, to be held on the 1st Monday of December, A. D. 1871, at the city of Washington, upon his giving bond as required by law.

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WADE HAMPTON,
By T. J. AND F. A. R. WHARTON,
His Attorneys.

Filed May 24th, 1871.

GEO. T. SWANN, *Clk.*

And, at the date of filing the foregoing petition for writ of error, the following writ of error bond was also filed, to wit:

Know all men that we, Wade Hampton, E. S. Butts, and Martin Keary, are held and bound to John D. Rouse, his executors, administrators, or assigns, in the penal sum of ten thousand dollars, for whose payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 24th day of May, A. D. 1871.

The condition of this bond is such that, whereas, in the circuit court of the United States for the southern district of the State of Mississippi, on the 24th day of May, A. D. 1871, by the judgment of said court, John Doe, ex dem. of said John D. Rouse, in a certain suit pending in said court, recovered against the said Wade Hampton a judgment, for the possession of a certain tract of land situated in the county of Washington and State of Mississippi, particularly described in the declaration in said suit, together with one cent damages and the costs of suit; and the said Hampton having prayed and obtained a writ of error to operate as a supersedeas to the next term of the Supreme Court of the United States to meet at Washington City, 1st Monday in December, 1871, to revise or reverse said judgment:

83

Now, if the said Hampton shall prosecute said writ of error with effect, or in case of failure therein shall pay and satisfy the amount of said judgment, according to the consideration of said appellate court, and moreover perform and satisfy such the consideration and judgment of said appellate court, and shall also pay and satisfy all costs and damages said Rouse may suffer or sustain in consequence of issuance of said writ of error and supersedeas, then this obligation to be void; otherwise it is to remain in full force.

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WADE HAMPTON. [L. S.]
E. S. BUTTS. [L. S.]
MARTIN KEARY. [L. S.]

Bond and security approved by me, the 24th day of May, A. D. 1871.
Teste:

R. A. HILL, *Judge.*

STATE OF MISSISSIPPI,
Washington County:

Personally appeared before me, E. J. McGarr, com'r of the U. S. for said State and county, Martin Keary and E. S. Butts, sureties to the foregoing writ of error bond, who being by me duly sworn, say on oath, that they own, each, property subject to execution, to the amount of ten thousand dollars, being the amount of said bond, after paying all their just debts and deducting what the law allows them.

Sworn to and subscribed before me the 24 day of May, 1871.

E. J. McGARR,
U. S. Com'r at Vicksburg.

Filed in office the 24th day of May, 1871.
Teste:

G. T. SWANN, *Clerk.*

85 UNITED STATES OF AMERICA, *ss:*

Circuit court United States, fifth judicial circuit, southern district of Mississippi.

I, George T. Swann, clerk of said court, do hereby certify that the preceding eighty-four pages contain a full, true, and perfect transcript of all the papers, process, proceedings, and final judgment filed in and had and rendered by said court in the cause therein lately pending, wherein John Doe, ex dem. John D. Rouse, was plaintiff, and Richard Roe, i. e. Wade Hampton et al. were defendants, numbered 907; also copies of the petition for writ of error, and of the writ of error bond executed therein, as fully and completely as the same remain on file and of record in my office.

In testimony whereof I hereunto subscribe my name and affix the seal of said circuit court, at office at Jackson, this 12th day of October, A. D. 1871.

[SEAL.] GEO. T. SWANN, *Clerk.*

[5-ct. int. rev. stamp canceled.]

86 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the judges of the circuit court of the United States for the fifth judicial circuit and the southern district of the State of Mississippi, greeting:

Because in the process, proceedings, and judgment in and before our circuit court of the United States for the southern district of Mississippi, between John Doe, ex dem. J. D. Rouse, plaintiff, and R. Roe, i. e. Wade Hampton, defendant, in which, on the 24th day of May, A. D. 1871, the said John Doe, ex dem. John D. Rouse, recovered judgment for the possession of a certain tract of land situated in the county of Washington, and State of Mississippi, particularly described in the declaration in said suit, together with one cent damages and the costs of suit against the said Richand Roe, i. e. Wade Hampton, manifest error in law has intervened, to the damage of the said R. Roe, i. e. Wade Hampton, as by his petition we are informed; and we being willing that

the error, if any there be, may be corrected, and full and speedy
87 justice done therein, do command you to send, under your signature and the seal of your court, openly and distinctly, a complete and perfect transcript of all of the said process, proceedings, and judgment as the same remains of record in said court, with this writ, so that the same be before our Supreme Court, to be held at the Capitol of the United States, in the city of Washington, on the 1st Monday of December, A. D. 1871, next, so that our said Supreme Court may cause to be done for the correction of the error what of right and according to law ought to be done.

Witness the Honorable Salmon P. Chase, Chief Justice of our said Supreme Court, the first Monday of December, A. D. 1870. Witness also, Geo. T. Swann, clerk of our said circuit court, and the seal of his said court, affixed the 24th day of May, A. D. 1871.

[SEAL.] GEO. T. SWANN, *Clerk.*

88 UNITED STATES OF AMERICA:

The President of the United States to the marshal of the United States for the southern district of Mississippi, greeting:

Whereas, on the 24th day of May, A. D. 1871, by the judgment of our circuit court of the United States for the southern district of Mississippi, John Doe, ex demise of John D. Rouse, plaintiff, recovered judgment against Richard Roe, i. e. Wade Hampton, for the possession of a certain tract of land in Washington County, and State of Mississippi, particularly described in the declaration in said suit, together with one cent damages and the costs of suit; and the said Wade Hampton having prayed and obtained a writ of error returnable into our Supreme Court of the United States at Washington City, at its next session to be held on the 1st Monday of December, 1871, next, and having given bond for supersedeas, we command you to cite the said John D. Rouse or G. G. Adams, and W. and J. R. Yerger, his attorneys of record, to appear then and there in and before said Supreme Court to defend the said writ of error, and have then and there this precept before our said Supreme Court.

89 Witness the Honorable Salmon P. Chase, Chief Justice of our said Supreme Court U. S., the first Monday of December, A. D. 1870. Witness also, George T. Swann, clerk of our said circuit court and the seal of his court, affixed the 24th day of May, A. D. 1871.

[L. S.] GEO. T. SWANN, *Clerk.*

(Indorsement on cover:) No. 490. Wade Hampton, plaintiff in error vs. John D. Rouse. S. Mississippi C. C. U. S. Filed 6th December 1871.